

Individual Criminal Responsibility for the Financing of Entities Involved in Core Crimes: Aiding and Abetting

Laura Ausserladscheider Jonas

<https://orcid.org/0000-0002-6112-9196>

Swiss Federal Office of Justice

laura.ausserladscheider@outlook.com

Dire Tladi

<https://orcid.org/0000-0003-3378-2873>

University of Pretoria

dire.tladi@up.ac.za

Abstract

War crimes, crimes against humanity, genocide and the crime of aggression could not be perpetrated without those who finance them. This article examines the basis for criminal liability in international criminal law (ICL) for persons who finance entities that perpetrate core crimes. Despite the need for clear rules, neither international courts nor scholars agree upon (i) whether liability exists for individuals who finance entities that perpetrate core crimes; and (ii) if so, the circumstances under which such liability exists. This article argues that an individual who finances an entity that perpetrates a core crime should be held criminally liable under customary international criminal law as an aider and abettor. The objective of this article is to clarify the rules that would enable international courts and tribunals to identify the extent to which individual criminal liability attaches to the financing of core crimes, as well as the legal basis for such liability. By clarifying the criminal accountability of individuals who finance entities that perpetrate core crimes, this article also seeks to clarify the mental elements of the mode of liability of aiding and abetting.

Keywords: international criminal law; individual criminal responsibility; aiding and abetting; modes of liability; financing; core crimes; knowledge and intent requirement